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In re Application of:	:	
HOFFMANN, Botho, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/536,494	:	
PCT No.: PCT/EP2003/014364	:	
International Filing Date: 17 December 2003	:	
Priority Date: 17 December 2002	:	
Atty Docket No.: 235811	:	
For: COPOLYAMIDES	:	

This decision is issued in response to the "Petition To Correct Filing Date Pursuant To 37 CFR 1.10(D)" and the "Request For Corrected Filing Receipt" filed 24 July 2006. No petition fee is required.

BACKGROUND

On 17 December 2003, applicants filed international application PCT/EP2003/014364. The application claimed a priority date of 17 December 2002, and it designated the United States. On 01 July 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 June 2005.

In May 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the U.S. basic national fee and a translation of the international application into English. Based on the "date in" on the "Express Mail" envelope, the USPTO assigned these materials a filing date of 25 May 2005.

On 03 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied on 25 May 2005.

Also on 03 July 2006, a filing receipt was issued identifying 25 May 2005 as the 371(c) date. The filing receipt identified the application as "a 371 of PCT/EP03/14364," but it did not include the foreign priority claim contained in PCT/EP03/14364.

On 24 July 2006, applicants filed the "Petition To Correct Filing Date Pursuant To 37 CFR 1.10(D)" and the "Request For Corrected Filing Receipt" considered herein. The petition seeks correction of the filing date to 24 May 2005, the date on which applicants assert the "Express Mail" envelope containing the materials initiating the present national stage application

was deposited with the USPS. The request for corrected filing receipt seeks to have the German priority application added to the filing receipt.

On 05 October 2006, applicants submitted via facsimile an executed declaration in compliance with 37 CFR 1.497.

DISCUSSION

A review of the application file reveals that the Notification Of Acceptance and filing receipt mailed 03 July 2006, both of which identified the 35 U.S.C. 371(c) date as 25 May 2006, were issued in error in that applicants had not yet satisfied the oath or declaration requirement of 35 U.S.C. 371(c)(4). The Notification Of Acceptance and filing receipt mailed 03 July 2006 are therefore appropriately vacated.

Applicants' 05 October 2006 submission of an executed declaration completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Accordingly, a new Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 05 October 2006.

Based on the above, applicants petition to correct "the filing date" from 25 May 2005 to 24 May 2005 is moot, as the filing date of the materials initiating this national stage application is not the operative filing date for this application; rather, 05 October 2006, the date on which applicants completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is the date which will appear on the corrected Notification Of Acceptance and filing receipt to be issued herein. It is noted that: "for most legal purposes, the filing date [for a national stage application] is the PCT international filing date" (see MPEP section 1893.03(b)).

Pursuant to applicants' request for a corrected filing receipt, the German priority information set forth in the published international application and on the Application Data Sheet (ADS) will be added to the corrected filing receipt to be issued herein.

CONCLUSION

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 03 July 2006 are hereby **VACATED**.

For the reasons discussed above, applicants' petition to correct the filing date herein is **DISMISSED** as moot.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 05 October 2006, and the mailing of a corrected filing

receipt that sets forth the proper 35 U.S.C. 371(c) date and includes the claim of benefit to the German priority application (German Application No. 102 59 048.6, filed 17 December 2002).

A handwritten signature in black ink, consisting of a series of loops and a final vertical stroke, representing the name Richard M. Ross.

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